

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: December 2, 2011

ANALYST: Chris Jones

I. COMMITTEE: Troy Burns, Treasurer
C00413393
Heath Shuler for Congress
PO Box 8446
Asheville, NC 28814

II. RELEVANT STATUTES: 2 U.S.C. § 434(b)
11 CFR § 104.3(b)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to Disclose All Financial Activity)

Heath Shuler for Congress ("the Committee") amended its 2010 October Quarterly, 2010 12 Day Pre-General, and 2010 30 Day Post-General Reports to disclose additional disbursements totaling \$1,003,696.58 that were not disclosed in the original reports (Attachment 2).

2010 October Quarterly Report

On October 13, 2010, the Committee filed the original 2010 October Quarterly Report covering the period from July 1, 2010 through September 30, 2010. The report disclosed \$416,938.85 in disbursements on Line 17 (Operating Expenditures) of the Detailed Summary Page (Image 10931427113).

On October 21, 2010, the Committee amended the 2010 October Quarterly Report disclosing no changes to the Committee's disbursements (Image 10991777811).

On January 31, 2011, the Committee amended the 2010 October Quarterly Report. The report disclosed \$645,023.85 in disbursements on Line 17 of the Detailed Summary

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Page, an increase of \$228,085.00 from the original report (Image 11990179219; Attachment 2).

Also on January 31, 2011, the Committee filed a Miscellaneous Text Submission ("Form 99") which stated, in part:

"The Committee has filed amended reports for the October Quarterly, Pre-General, and Post-General periods today. The October Quarterly and Pre-General disclose an increase in disbursement activity. The Committee has been using a third-party vendor to prepare its FEC reports. This vendor made an accounting error and omitted the activity from one of the committee's accounts. These amendments correct the error and disclose the omissions. The Committee is working with the vendor to correct its processes to prevent such errors in the future" (Image 11990180848).

On August 4, 2011, a Request for Information (RAI) was sent to the Committee referencing the Amended 2010 October Quarterly Report, received January 31, 2011. The RAI requested clarification regarding the increase in disbursements that were not disclosed on the original filing (Image 11330012130).

On September 8, 2011, the Committee filed a Form 99 in response to the RAI which stated, in part:

"The Committee used a third party vendor to prepare and file its FEC reports. This vendor made an accounting error and omitted the activity from one of the Committee's bank accounts. The January 31, 2011 Amended October Quarterly Report corrected the error and disclosed the omitted activity. The Committee has taken steps with its vendor to ensure that similar errors do not occur in the future" (Image 11932321373).

2010 12 Day Pre-General Report

On October 21, 2010, the Committee filed the original 12 Day Pre-General Report covering the period from October 1, 2010 through October 13, 2010 (Image 10991777978). The report disclosed \$20,081.71 in disbursements on Line 17 (Operating Expenditures) of the Detailed Summary Page (Image 10991777981).

On January 31, 2011, the Committee amended the 12 Day Pre-General Report to disclose \$391,134.71 in disbursements on Line 17 of the Detailed Summary Page, an increase of \$371,053.00 from the original report (Image 11930307641; Attachment 2).

On February 23, 2011, an RAI was sent to the Committee referencing the Amended 12 Day Pre-Primary Report, received January 31, 2011. The RAI requested clarification regarding the increase in disbursements that were not disclosed on the original filing (Image 11330005497).

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On March 15, 2011, the Committee filed a Form 99 in response to the RFAI referencing the 2010 12 Day Pre-General Report. The Form 99 also referenced the increase in disbursements on the amended 2010 October Quarterly Report and provided an identical explanation as the Form 99 filed on January 31, 2011 (Image 11930478273).

2010 30 Day Post-General Report

On December 2, 2010, the Committee filed the original 30 Day Post-General Report covering the period from October 14, 2010 through November 22, 2010. The report disclosed \$299,067.71 in disbursements on Line 17 (Operating Expenditures) and \$3,250.00 in disbursements on Line 21 (Other Disbursements) of the Post-Election Detailed Summary Page (Images 10932049690-1).

On December 3, 2010, the Committee amended the 30 Day Post-General Report. The amendment disclosed no changes to Line 17 and \$7,250.00 in disbursements on Line 21 of the Post-Election Detailed Summary Page (Image 10932057968).

On January 31, 2011, the Committee amended the 30 Day Post-General Report. The amendment disclosed \$701,626.29 in disbursements on Line 17 and \$7,250.00 in disbursements on Line 21 of the Post-Election Detailed Summary Page, an increase of \$404,558.58 from the original report (Images 11930308406-7; Attachment 2).

On June 14, 2011, an RFAI was sent to the Committee referencing the Amended 30 Day Post-General Report, received January 31, 2011. The RFAI requested clarification regarding the increase in disbursements that were not disclosed on the original filing (Image 11330010501).

On June 28, 2011, Patrick Smock, a Committee representative, contacted the Reports Analysis Division (RAD) Analyst to request guidance on a proper response to the RFAI sent regarding the 30 Day Post-General Report. Mr. Smock stated that the response made for the 12 Day Pre-General Report applied to the 30 Day Post-General Report. The Analyst told him that nothing needed to be filed, but if he felt it necessary the Committee could repeat the same information in another Form 99 (Attachment 3).

On July 18, 2011, the Committee filed a Form 99 in response to the RFAI which stated, in part:

"The Committee used a third party vendor to prepare and file its FEC reports. This vendor made an accounting error and omitted the activity from one of the Committee's bank accounts. The January 31, 2011 Amended 30 Day Post-General Report corrected the error and disclosed the omitted activity. The Committee has taken steps with its vendor to ensure that similar errors do not occur in the future" (Image 11931941282).

On September 21, 2011, the RAD Analyst left a voicemail message for Brett Smiley, a compliance consultant for the Committee, to notify him that the Committee could be referred to another office for further Commission action due to the increased activity on the

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amended reports. The analyst requested the Committee to call him back for further clarification (Attachment 3).

On November 18, 2011, the RAD Analyst spoke with Mr. Smiley about the Committee's referral to another Commission office for further action. Mr. Smiley indicated he was aware of the situation. The Analyst mentioned that the Committee had an option to place any additional information on the public record (Attachment 3).

To date, no further communications have been received from the Committee regarding these matters.

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O-Index

12/2/2011 9:22 AM

O-Index (2011-2012)													
Candidate: JAMES HEATH SHULER FOR CONGRESS													
Committee: HOUSE													
Candidate Name: BURNS, TROY													
Address: PO BOX 6546, ASHEVILLE, NC 28814													
Filing Frequency: QUARTERLY FILER													
Form	Trp	Rep	Trp	Alt	Receipt Dt	Pays	Receipt Amt	Req	End	Req	End	Receipts	Debits
MS-T					1/31/2011	1	11800180949						
MS-T					3/15/2011	1	11930478273						
MS-T					7/15/2011	1	11930478273						
MS-T					8/8/2011	1	11932321373						
F3N	Q1				3/5/2011		11800180949						
F3N	Q2				4/1/2011	83	11931912506						
F3N	Q3				7/1/2011		11931912506						
F3A					4/16/2011	5	11930880677						
Totals												\$302,751	\$302,751

O-Index (2009-2010)													
Candidate Name: BURNS, TROY Candidate: HEATH SHULER FOR CONGRESS													
Address: PO BOX 6546, ASHEVILLE, NC 28814													
Filing Frequency: QUARTERLY FILER													
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R02	Q2		7/1/2010		11330012130								
R02	Q3		10/1/2010		11330012130								
R02	Q4		1/1/2011		11330012130								
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F3N	Q2		4/1/2009		29981947717								
F3N	Q3		7/1/2009		29981947717								
F3N	Q4		10/1/2009		29981947717								
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F3A			7/1/2010		10930514520								
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F1A	A	A	2/27/2008	4	29832518009							
F1A	A	A	1/18/2010	3	10830332278							
F8			5/3/2010	2	10830682586							
F1A	A	A	7/22/2008	4	29882802142							
F6			10/17/2010	2	10831543598							
F6			10/10/2010	2	10831678012							
F6			10/23/2010	2	10831780007							
F6			10/23/2010	3	10831781717							
F6			10/22/2010	3	10831758389							
F6			10/20/2010	3	10831616188							
F6			10/28/2010	2	10881784781							
F6			10/28/2010	2	10881788127							
F6			11/1/2010	2	10881808895							
F6			10/27/2010	2	10881787818							
F6			10/30/2010	2	10881804894							
F6			10/28/2010	2	10881805885							
F2N	N	N	12/30/2010	1	10832164886							

Form	Id	Rep	Up	Av	Recd	Dt	Pos	Begin	End	Con	Dt	Trf	Mod	Dr	Re	Disb	End	Cash	Debits	Loans	Debits & Loans
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MS-T					215/2007	1		27830142382													
MS-T					1/6/2008	1		28930013807													
RQ1				N	7/12/2007	3		27038470367													
RQ2				A	7/12/2007	4		27038470433			1/1/2007	3/31/2007	7/12/2007								
RQ2				N	8/1/2007	3		27038612288			4/1/2007	8/30/2007	8/21/2007								
RQ2				N	12/4/2007	4		27038571307			7/1/2007	9/30/2007	12/4/2007								
RQ2				N	12/30/2008	3		28038970012			10/1/2008	11/2/2008	12/30/2008								
F3				N	4/1/2007	83		27830602489			1/1/2007	3/31/2007				\$44,454	\$220,153	\$63,080	\$201,528		\$0
F3				A	4/1/2007	83		27830612513			1/1/2007	3/31/2007				\$44,454	\$220,163	\$63,080	\$201,528		\$0
F3				A	8/13/2007	83		278800473511			1/1/2007	3/31/2007				\$44,454	\$220,153	\$63,080	\$201,528		\$0
F3				A	7/14/2008	83		28881341142			1/1/2007	3/31/2007				\$42,919	\$220,284	\$63,086	\$200,116		\$0
F3				A	7/15/2007	145		27930936819			4/1/2007	9/30/2007				\$201,528	\$303,968	\$35,387	\$470,108		\$0
F3				N	9/15/2007	146		278800584729			4/1/2007	9/30/2007				\$201,528	\$303,968	\$35,387	\$470,108		\$0
F3				A	7/14/2008	147		28932158768			4/1/2007	9/30/2007				\$200,116	\$303,968	\$35,382	\$468,823		\$0
F3				N	10/15/2007	150		27851370587			7/1/2007	9/30/2007				\$470,108	\$102,863	\$41,220	\$531,761		\$0
F3				A	7/14/2008	48		28932158155			7/1/2007	9/30/2007				\$468,823	\$103,123	\$41,475	\$530,271		\$0
F3				N	3/15/2008	92		28830274760			10/1/2007	12/31/2007				\$531,761	\$167,873	\$73,769	\$625,865		\$0
F3				YE	7/14/2008	93		28832159285			10/1/2007	12/31/2007				\$530,271	\$167,873	\$73,769	\$624,175		\$0
F3				N	12/31/2008	110		2883132214			1/1/2008	4/1/2008				\$625,865	\$178,939	\$69,890	\$735,704		\$0

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F3	12P	A	7/14/2008	110	28891412119	1/1/2008	4/18/2008	\$624,175	\$176,839	\$86,880	\$734,223	\$0
F3	Q2	N	7/15/2008	119	28891428817	4/17/2008	6/30/2008	\$734,223	\$287,962	\$87,236	\$884,950	\$0
F3	Q3	N	10/15/2008	164	28892588777	7/1/2008	9/30/2008	\$884,950	\$217,287	\$135,949	\$1,046,288	\$0
F3	12G	N	10/23/2008	161	28893407822	10/1/2008	10/15/2008	\$1,046,288	\$58,237	\$81,288	\$1,044,239	\$0
F3N	30G	N	12/4/2008	63	288933388026	10/16/2008	11/24/2008	\$1,044,239	\$109,541	\$180,828	\$871,952	\$0
F3A	30G	A	2/27/2009	83	288932515815	10/16/2008	11/24/2008	\$1,044,239	\$109,541	\$180,828	\$871,952	\$0
F3N	YE	N	1/31/2008	22	288932118269	11/25/2008	12/31/2008	\$871,952	\$15,784	\$44,031	\$943,706	\$0
F6			4/15/2008	2	288933880571							
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F6			4/23/2008	2	28890683008							
F6			4/18/2008	2	28890882055							
F6			4/25/2008	2	28890848248							
F6			4/28/2008	2	28890948250							
F6			5/1/2008	2	28890954768							
F6			4/24/2008	2	28890892497							
F6			4/30/2008	2	288931484082							
F6			4/30/2008	3	28890853104							
F6			5/1/2008	2	28890854084							
F6			10/24/2008	2	28894174088							
F6			10/19/2008	2	28893174077							
F6			10/22/2008	2	28892870289							
F6			10/22/2008	2	28892868551							
F6			10/22/2008	2	28892804640							
F6			10/31/2008	2	28893037635							
F6			10/31/2008	2	28893083455							
F6			11/2/2008	2	288941188242							
F6			11/2/2008	2	288941188242							
Totals								\$1,670,732		\$709,915		

Heath Shuler for Congress (C00413393)**Overview of Additional Disbursements**

Report Name	Total Additional Disbursement	Line Number(s)
2010 October Quarterly Report/Amended October Quarterly Report, received 1/31/11.	\$228,085.00	17
2010 12 Day Pre-General Report/Amended 12 Day Pre-General Report, received 1/31/11	\$371,053.00	17
2010 30 Day Post-General Report/Amended 30 Day Post-General Report, received 1/31/11	\$404,558.58	17, 21
Total Additional Disbursements	\$1,003,696.58	

Additional Disbursements by Line Number***2010 October Quarterly Report/Amended 2010 October Quarterly Report, received 1/31/11***

Report Line	2010 October Quarterly Report (Image 10931427115)	Amended 2010 October Quarterly Report, received 1/31/11 (Image 11530179217)	Variance Amount
Line 17: Operating Expenditures	\$416,938.85	\$645,023.85	\$228,085.00
		Total Variance:	\$228,085.00

2010 12 Day Pre-General Report/Amended 2010 12 Day Pre-General Report, received 1/31/11

Report Line	2010 12 Day Pre-General Report (Image 10721771701)	Amended 2010 12 Day Pre-General Report, received 1/31/11 (Image 11250307041)	Variance Amount
Line 17: Operating Expenditures	\$20,081.71	\$391,134.71	\$371,053.00
		Total Variance:	\$371,053.00

2010 30 Day Post-General Report/Amended 2010 30 Day Post-General Report, received 1/31/11

Report Line	2010 30 Day Post-General Report (Image 1050701701)	Amended 2010 30 Day Post-General Report, received 1/31/11 (Image 11250307041)	Variance Amount
Line 17: Operating Expenditures	\$299,067.71	\$701,626.29	\$402,558.58
Line 21: Other Disbursements	\$5,250.00	\$7,250.00	\$2,000.00
		Total Variance:	\$404,558.28